

AN ORDINANCE amending  
Chapter 13 of the City of  
Fort Wayne Code of Laws.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON  
COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That Articles I, II, III, IV, V and  
IX of Chapter 13 of the City of Fort Wayne Code of Laws  
be amended as follows:

CHAPTER 13  
FOOD AND BEVERAGE ESTABLISHMENTS

ARTICLE I. IN GENERAL

Section 13-1 of Article I of Chapter 13 of the City of  
Fort Wayne Code of Laws be amended as follows:

Sec. 13-1. Definitions.

Unless the context specifically indicates otherwise,  
the following definitions shall apply in the  
interpretation and enforcement of this Chapter.

- a) BOARD shall mean the Fort Wayne-Allen County  
Department of Public Health of Fort Wayne, Allen  
County, Indiana.
- b) COMMISSARY shall mean any food establishment,  
including, but not limited to, any place in which  
food, beverages, food or beverage ingredients,  
containers, or supplies are kept, handled, prepared  
or stored for the purpose of directly supplying  
food or beverage vending machines.
- c) DANGEROUS COMMUNICABLE DISEASE shall include those  
diseases which epidemiological evidence indicates  
can be transmitted through food preparation.
- d) DEPARTMENT shall mean the Fort Wayne-Allen County  
Department of Public Health of Fort Wayne, Allen  
County, Indiana, and/or its employees.
- e) FOOD shall include, but not necessarily be limited  
to, all raw, cooked or processed edible substances  
which may be used in whole or in part for human  
consumption, whether solid or liquid, packaged or  
unpackaged, confectionery, or condiment, whether  
simple, mixed or compound, and all substances or  
ingredients used in the preparation thereof or  
which become components thereof.
- f) FOOD ESTABLISHMENT shall mean any "food service  
establishment", "temporary food service  
establishment", "mobile food service  
establishment", "food market", "temporary food  
market", "temporary farmer's food market", "mobile  
food market", "food or beverage vending machine",  
"food processing establishment", "commissary", or



any other establishment where food intended for human consumption is manufactured, produced, stored, warehoused, prepared, handled, transported, sold, served or provided with or without charge; provided, however, that when the entire operation of a food establishment is receiving continuous inspection by an appropriate state or federal government agency, including the United State Department of Agriculture Consumer and Marketing Service or the Indiana State Board of Health, it shall not be included in the above definition, except that the Department shall be permitted to enter such food establishment to trace spoiled or defective products that are suspected to be spoiled or defective when the same are discovered in any food establishment.

g) **FOOD HANDLER** shall include, but not necessarily be limited to, any person who may come into contact with food by sale, processing, preparation, packaging, serving, or who comes in contact with any utensil or equipment of any kind used in said process, or who is employed in a room or rooms in which food is being processed, prepared, packaged, served, or sold.

h) **FOOD MARKET** shall mean any food establishment, including, but not limited to, a grocery, meat market, poultry market, fish market, fresh fruit and vegetable market, delicatessen, confectionery, candy kitchen, nut store, retail bakery store, or any other food establishment, whether fixed or movable, where food, intended for human consumption off the premises, is manufactured, produced, stored, prepared, handled, sold or offered for sale at retail or wholesale. Provided, however, that the provisions of this ordinance shall not include meat or poultry slaughterhouses.

i) **FOOD OR BEVERAGE VENDING MACHINE** shall mean any self-service device offered for public use which, upon insertion of paper money, coins or tokens, or by other similar means, dispenses unit servings of food or beverage, either in bulk or in package.

j) **FOOD-PROCESSING ESTABLISHMENT** shall mean a commercial establishment in which food is processed or otherwise prepared, packaged or manufactured for human consumption.

k) **FOOD SERVICE ESTABLISHMENT** shall mean any food establishment, including but not limited to, a restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, tavern, sandwich stand, soda fountain, commissary, drive-in restaurant, drink establishment, snack bar, food counter, dining room, food catering, industrial feeding establishment, private, public, or non-profit organization or institution routinely serving food, and any other eating or drinking establishment where food or drink is prepared, served or provided for human consumption with or without charge.

l) **HEALTH COMMISSIONER** shall mean the Director of Public Health of the Fort Wayne-Allen County Department of Public Health of Fort Wayne, Allen County, Indiana, and/or his/her authorized representative.



- m) **IMMINENT HEALTH HAZARD** shall mean any event, circumstance or situation which in the sole discretion of the Health Commissioner, or his/her authorized representative, presents a serious and present health risk to a person or the public.
- n) **MACHINE LOCATION** shall include, but not limited to, any room, enclosure, space or area where one or more food or beverage vending machines are installed or operated.
- o) **MOBILE FOOD MARKET** shall mean any food establishment capable of being readily moved from location to location where food, intended for human consumption outside of the facility, is stored, sold or offered for sale in prepackaged form, fresh or frozen, at retail or wholesale prices.
- p) **MOBILE FOOD SERVICE ESTABLISHMENT** shall mean any food establishment without a fixed location capable of being readily moved intact from location to location by its motorized power unit, or as a trailer, or as a peddled or pushed carrier, or as a tote box.
- q) **NEW PERMITTEE** shall be deemed to be any person, not related by blood or marriage, who acquires, through an asset purchase agreement, stock purchase agreement, merger, consolidation or other similar method, more than 50% of the control of a prior permittee's business.
- r) **OPERATE** and/or its derivatives shall mean the doing or performing of practical work or involving the practical application of principals or processes.
- s) **PERMIT** shall mean a certificate and/or a permit number of a size and style previously approved by the Health Commissioner.
- t) **PERMITTEE** shall include the person who is the owner of or responsible for the operation of a food establishment which shall include his/her/its authorized representative and who shall be responsible for the acceptance of all notices at the address listed on the application for any permit issued hereunder.
- u) **PERSON** shall include, but not be limited to, an individual, a corporation, firm, partnership, proprietorship, association, business organization, municipality or any other group acting as a unit, as well as an individual, trust or estate, or the agent or legal representative thereof.
- v) **POTENTIALLY HAZARDOUS FOOD** shall mean any perishable food that consist in whole or in part of milk or milk products, eggs, meat, poultry, fish, shell fish, edible crustacea, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods which have a PH level of four and six-tenths (4.6) or below or a water activity (Aw) value of eighty-five hundredths (0.85) or less under standard conditions or food products in hermetically sealed containers processed to prevent spoilage.



- 1 w) **SAFE TEMPERATURES** as applied to potentially  
2 hazardous food shall mean food temperatures at 45  
3 degrees F or below, and 140 degrees F or above, and  
4 frozen foods at 0 degrees F or below, provided,  
5 however, a tolerance of 5 degrees shall be  
6 permitted on frozen foods only.
- 7 x) **TEMPORARY FARMER'S FOOD MARKET** shall mean any food  
8 establishment in an enclosure, stall or other  
9 facility, whether fixed or mobile, operating at a  
10 fixed location on a seasonal basis for one or more  
11 days and not to exceed six (6) consecutive calendar  
12 months, where only fresh fruits, vegetables, honey  
13 or cider intended for human consumption off the  
14 premises are offered for sale at retail or  
15 wholesale.
- 16 y) **TEMPORARY FOOD MARKET** shall mean any food  
17 establishment in any enclosure, stall or other  
18 facility whether fixed or mobile, operating at a  
19 fixed location for not more than fourteen  
20 consecutive days where food intended for human  
21 consumption off the premises is offered for sale at  
22 retail or wholesale prices.
- 23 z) **TEMPORARY FOOD SERVICE ESTABLISHMENT** shall mean any  
24 food establishment operating at one site or  
25 location for a period of time not in excess of  
26 fourteen (14) consecutive calendar days, in  
27 connection with a fair, carnival, circus, public  
28 exhibition, or any other gathering, whether or not  
29 the facility is fixed or movable.
- 30 aa) **UTENSIL** shall mean all containers or any equipment  
31 of any kind or nature, including, but not  
32 necessarily limited to any kitchenware, tableware,  
glassware, or cutlery, with which food may come  
into contact during storage, preparation, serving,  
or eating, or any and all apparatus, machinery or  
tools which may be used for the cleaning of said  
containers or equipment.
- bb) **VENDING OPERATOR** shall include, but not necessarily  
be limited to any person who by contract,  
agreement, or ownership, takes responsibility for  
furnishing, installing, servicing, operating, or  
maintaining one or more food or beverage vending  
machines.

## ARTICLE II. PERMITS

Section 13-4 of Article II of Chapter 13 of the City of  
Fort Wayne Code of Laws be amended as follows:

### Sec. 13-4. Separate Permits.

A separate permit shall be required for each food  
establishment and/or vending operator regardless of  
whether or not they are contained in the same building,  
where the person owning the building and/or operating the



1 food establishment are not identical. For each kitchen  
2 within a food establishment, a separate license shall be  
3 obtained and a separate license fee shall be paid.  
4 However, this requirement as to separate permits shall  
5 not apply to those arrangements where a bar and  
6 restaurant are being operated under a management  
7 agreement as long as the applicant on the food  
8 establishment permit is one and the same person as the  
9 holder of the ABC permit.

10  
11 **Section 13-8. of Article II of Chapter 13 of the City of**  
12 **Fort Wayne Code of Laws be amended as follows:**

13 **Sec. 13-8. Term.**

14 a. The permit for a food service establishment, mobile  
15 food service establishment, food market, mobile  
16 food market, vending operator, commissary or food  
17 processing establishment shall be for a term of one  
18 year beginning upon the date of issue.

19 1. Said permit shall be renewed annually on or  
20 before the 15th day of the anniversary month.

21 b. The permit for a temporary food service  
22 establishment shall be for a term not to exceed  
23 fourteen (14) consecutive calendar days.

24 c. The permit for a temporary food market shall be for  
25 a term not to exceed fourteen (14) consecutive  
26 calendar days.

27 d. The permit for a temporary farmer's food market  
28 shall be for a term not to exceed six (6)  
29 consecutive calendar months.

30  
31 **Section 13-9.5 shall be added to Article II of Chapter 13**  
32 **of the City of Fort Wayne Code of Laws as follows:**

**Sec. 13-9.5. Lapse of Permit.**

Each permit issued hereunder shall automatically  
lapse and be void and of no further force or effect



1 unless the permittee actually begins operations under its  
2 permit within a time period which is equal to 25% of the  
3 life of the permit issued.

4  
5 **ARTICLE III. CONSTRUCTION, RENOVATION AND ALTERATION**  
6 **OF FOOD ESTABLISHMENTS AND VENDING**  
7 **MACHINES.**

8  
9 **Section 13-10. of Article III of Chapter 13 of the City**  
10 **of Fort Wayne Code of Laws shall be amended as follows:**  
11 **Sec. 13-10. Construction, Renovation and Alteration of**  
12 **Food Establishments and Vending Machines.**

13 All construction, renovation and alteration of food  
14 establishments and vending machines shall be as follows:

- 15 a) all food establishments which are hereinafter  
16 constructed or renovated shall conform in their  
17 construction to the applicable requirements of  
18 Article V. of this Ordinance.
- 19 b) no such construction, renovation or alteration  
20 shall begin without the construction, renovation or  
21 alteration plans being first submitted to and  
22 approved by the Health Commissioner. Failure to  
23 obtain the Health Commissioner's approval, shall be  
24 the basis for the issuance of an immediate stop  
25 work order by the Health Commissioner.
- 26 c) all equipment installed in a food establishment for  
27 use in the cleansing and bactericidal treatment of  
28 utensils, or in the preparation, storing, handling,  
29 cleaning, sanitizing or serving of food or drink,  
30 shall be of a type conforming with the minimum  
31 standards of the National Sanitation Foundation  
32 (NSF) or (ETL), or better.
- d) the Health Commissioner may condemn equipment that  
fails to meet NSF or ETL standards.



- 1 e) all food establishments must fully comply at all  
2 times with all local and state building and fire  
3 codes. Compliance with the building and fire codes  
4 is a pre-condition to the issuance, reinstatement  
5 or renewal of any permit. Failure of any permittee  
6 to fully comply with said building and fire codes  
7 shall be the basis for the suspension, immediate  
8 closure and/or revocation of any permit issued  
9 hereunder.
- 10 f) all food establishments involved with the on-sight  
11 preparation of food shall be required to install  
12 and maintain a food preparation sink which is  
13 separate and independent of the other sinks  
14 required under 410 IAC 7-15.1 and 7-16.1, as  
15 amended.
- 16 g) Except as set forth below, all food establishments  
17 shall be required to install a grease interceptor  
18 in the waste line leading from sinks, drains and  
19 other fixtures or equipment where grease may be  
20 introduced into the drainage of sewage systems in  
21 quantities that can effect line stoppage or hinder  
22 sewage treatment. The grease interceptor must be  
23 installed in such a manner that meets all  
24 applicable requirements imposed by the building  
25 department and shall be located in such areas as  
26 are easily accessible for cleaning. Any existing  
27 food establishment which does not introduce grease  
28 into any sewage system shall be exempt from this  
29 provision.

30 **ARTICLE IV. APPLICATION AND/OR PERMIT FEES.**

31  
32  
Section 13-13. of Article IV. of Chapter 13 of the City  
of Fort Wayne Code of Laws shall be amended as follows:



Sec. 13.13. Permit Fees for Food Service Establishment, Temporary Food Service Establishments, Temporary Food Markets, Food Processing Establishment.

Permit Fees for Food Service Establishments, Temporary Food Service Establishments, Temporary Farmers Food Market, Temporary Food Markets, Food Processing Establishment are as follows:

- |   |           |
|---|-----------|
| 1. 1 through 5 employees  | \$ 110.00 |
| 2. 6 through 9 employees  | 150.00    |
| 3. 10 through 40 employees  | 175.00    |
| 4. 41 employees and over  | 200.00    |
| 5. Temporary food service establishments (for each 48 hours of operation) | 15.00     |
| 6. Temporary food market (for each 48 hours of operation)                 | 15.00     |
| 7. Temporary farmer's food market   | 25.00     |

Section 13-19. of Article IV. of Chapter 13 of the City of Fort Wayne Code of Laws shall be amended as follows:

Sec. 13-19. Exemption.

- a. The permit fee provisions of this ordinance shall not apply to any fruit and vegetable stands maintained and operated by a person who sells directly to a consumer, fresh fruits, vegetables, honey or cider grown and sold on lands owned or controlled by him.
- b. The permit fee provisions of this ordinance shall not apply to any food establishments or vending operators which comply with the terms and provisions of I.C. 16-1-20-26, unless they waive said exemption and/or operate more than thirty days in a calendar year and provide food service to



persons other than members, guests or students on a regular basis.

1. Applicants for this exemption shall provide the Health Commission with a copy of its 501(c)(3) status.

c. Food Establishments which sell or offer for sale directly to the consumer only prepackaged confections such as candy, chewing gum, nut meats, potato chips, pretzles, popcorn, coffee and soft drink beverages shall be exempt from the provisions of this ordinance.

d. Vending machines which dispense only prepackaged, pre-bottled, non-readily perishable food and beverages shall be exempt from the provisions of this Chapter.

#### ARTICLE V. MINIMUM SANITARY REQUIREMENTS

Section 13-20. of Article IV. of Chapter 13 of the City of Fort Wayne Code of Laws shall be amended as follows:

Sec. 13-20. Minimum sanitary requirements for food establishments, vending operators, food and beverage vending machines and bed and breakfast inns.

a. All food establishments, with the exception of temporary farmers food markets, vending operators and food and beverage vending machines shall comply with the minimum sanitary requirements specified by the Indiana State Board of Health as provided in its Regulations 410 IAC 7-15.1 and 7-16.1, as amended.

b. All food establishments, with the exception of temporary farmers food markets, vending operators and food and vending machines shall be required to tap into a publicly supplied water system when said



1 system is located within 300 feet of the boundary  
2 lines of the real estate upon which said food  
3 establishment is located, when said system is  
4 adequate to handle an additional tap-in, and when  
5 the permittee has direct access to said system or  
6 can obtain access to said system by means of  
7 easements or other necessary grants of authority.  
8 In the case where the permittee does not have  
9 direct access to said system, the permittee shall  
10 be required to make a diligent and reasonable  
11 effort to obtain the necessary easements and/or  
12 other grants of authority to obtain access to the  
13 system.

14  
15 Section 13-21. of Article IV. of Chapter 13 of the City  
16 of Fort Wayne Code of Laws shall be amended as follows:

17 Sec. 13-21. The minimum sanitary requirements for  
18 temporary farmer's food markets are as  
19 follows.

- 20 a. Every temporary food market shall be located in  
21 clean surroundings and be kept in a clean sanitary  
22 condition.
- 23 b. All equipment and utensils used in storing and  
24 displaying fresh fruits and vegetables shall be  
25 sanitized.
- 26 c. Only fresh fruits, honey, cider and vegetables that  
27 are clean, wholesome, free from spoilage and  
28 adulteration shall be sold.
- 29 d. All fresh fruits, honey, cider and vegetables shall  
30 be stored or displayed at least thirty (30) inches  
31 above the floor level and in such manner as to  
32 protect the food from contamination by splash, foot  
traffic, dust, animals and other means.
- e. Garbage and refuse shall be kept in tightly  
covered, watertight containers until removed and



1 shall be disposed of daily in a place and manner  
2 that does not create a public health hazard.

3 f. All employees shall wear clean outer garments and  
4 shall keep their hands and fingernails clean at all  
5 times while engaged in the handling of food,  
6 utensils, or equipment, Employees shall not  
7 expectorate or use tobacco in any form within the  
8 establishment.

9 g. The Health Commissioner may augment such  
10 requirements when he/she may deem it necessary to  
11 prevent a condition which may constitute a public  
12 health hazard.

13  
14 ARTICLE IX. INSPECTIONS

15  
16 Section 13-32. of Article IX. of Chapter 13 of the City  
17 of Fort Wayne Code of Laws shall be amended as follows:  
18 Sec. 13.32. Frequency of Inspection.

19 Except as noted below, each food establishment for  
20 which a permit is required under the provisions of this  
21 Chapter shall be inspected at least once each six months,  
22 or more frequently if determined necessary by the Health  
23 Commissioner. A temporary Farmer's Food Market shall be  
24 inspected at least once each permit period.

25  
26 Section 13-33. of Article IX. of Chapter 13 of the City  
27 of Fort Wayne Code of Laws shall be amended as follows:  
28 Sec. 13.33. Inspection of Temporary Food Service

29 Establishment and Temporary Food Market.

30 Each temporary food service establishment and  
31 temporary food market for which a permit is required  
32 under the provisions of this Chapter shall be inspected  
at least once in each forty-eight hour period.



SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor and all necessary publication.

\_\_\_\_\_  
Council Member

APPROVED AS TO FORM  
AND LEGALITY

  
J. Timothy McCaulay, City Attorney



Read the first time in full and on motion by \_\_\_\_\_, seconded by \_\_\_\_\_, and duly adopted, read the second time by title and referred to the Committee on \_\_\_\_\_ (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_, day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

DATED: \_\_\_\_\_

SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Edmonds, seconded by \_\_\_\_\_, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>9</u>			
BRADBURY	<u>✓</u>			
EDMONDS	<u>✓</u>			
GiaQUINTA	<u>✓</u>			
HENRY	<u>✓</u>			
LONG	<u>✓</u>			
LUNSEY	<u>✓</u>			
RAVINE	<u>✓</u>			
SCHMIDT	<u>✓</u>			
TALARICO	<u>✓</u>			

DATED: 8-11-92.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) Reversal (GENERAL) (SPECIAL) (ZONING) ORDINANCE RESOLUTION NO. 9-39-92 on the 11th day of August, 1992

ATTEST:  
Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

(SEAL)  
Thomas E. Henry  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of August, 1992, at the hour of 10:30 o'clock PM, M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 12th day of August, 1992, at the hour of 4:30 o'clock PM, M., E.S.T.

PAUL HELMKE  
PAUL HELMKE, MAYOR



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COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

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which may be used in whole or in part for human  
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unpackaged, confectionery, or condiment, whether  
simple, mixed or compound, and all substances or  
ingredients used in the preparation thereof or  
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establishment", "mobile food service  
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"food processing establishment", "commissary", or any other establishment where food intended for human consumption is manufactured, produced, stored, warehoused, prepared, handled, transported, sold, served or provided with or without charge; provided, however, that when the entire operation of a food establishment is receiving continuous inspection by an appropriate state or federal government agency, including the United State Department of Agriculture Consumer and Marketing Service or the Indiana State Board of Health, it shall not be included in the above definition, except that the Department shall be permitted to enter such food establishment to trace spoiled or defective products that are suspected to be spoiled or defective when the same are discovered in any food establishment.

- g) **FOOD HANDLER** shall include, but not necessarily be limited to, any person who may come into contact with food by sale, processing, preparation, packaging, serving, or who comes in contact with any utensil or equipment of any kind used in said process, or who is employed in a room or rooms in which food is being processed, prepared, packaged, served, or sold.
- h) **FOOD MARKET** shall mean any food establishment, including, but not limited to, a grocery, meat market, poultry market, fish market, fresh fruit and vegetable market, delicatessen, confectionery, candy kitchen, nut store, retail bakery store, or any other food establishment, whether fixed or movable, where food, intended for human consumption off the premises, is manufactured, produced, stored, prepared, handled, sold or offered for sale at retail or wholesale. Provided, however, that the provisions of this ordinance shall not include meat or poultry slaughterhouses.
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- j) **FOOD-PROCESSING ESTABLISHMENT** shall mean a commercial establishment in which food is processed or otherwise prepared, packaged or manufactured for human consumption.
- k) **FOOD SERVICE ESTABLISHMENT** shall mean any food establishment, including but not limited to, a restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, tavern, sandwich stand, soda fountain, commissary, drive-in restaurant, drink establishment, snack bar, food counter, dining room, food catering, industrial feeding establishment, private, public, or non-profit organization or institution routinely serving food, and any other eating or drinking establishment where food or drink is prepared, served or provided for human consumption with or without charge.
- l) **HEALTH COMMISSIONER** shall mean the Director of Public Health of the Fort Wayne-Allen County Department of Public Health of Fort Wayne, Allen County, Indiana, and/or his/her authorized representative.



- 1 m) **IMMINENT HEALTH HAZARD** shall mean any event,  
2 circumstance or situation which in the sole  
3 discretion of the Health Commissioner, or his/her  
4 authorized representative, presents a serious and  
5 present health risk to a person or the public.
- 6 n) **MACHINE LOCATION** shall include, but not limited to,  
7 any room, enclosure, space or area where one or  
8 more food or beverage vending machines are  
9 installed or operated.
- 10 o) **MOBILE FOOD MARKET** shall mean any food  
11 establishment capable of being readily moved from  
12 location to location where food, intended for human  
13 consumption outside of the facility, is stored,  
14 sold or offered for sale in prepackaged form, fresh  
15 or frozen, at retail or wholesale prices.
- 16 p) **MOBILE FOOD SERVICE ESTABLISHMENT** shall mean any  
17 food establishment without a fixed location capable  
18 of being readily moved intact from location to  
19 location by its motorized power unit, or as a  
20 trailer, or as a peddled or pushed carrier, or as a  
21 tote box.
- 22 q) **NEW PERMITTEE** shall be deemed to be any person,  
23 not related by blood or marriage, who acquires,  
24 through an asset purchase agreement, stock purchase  
25 agreement, merger, consolidation or other similar  
26 method, more than 50% of the control of a prior  
27 permittee's business.
- 28 r) **OPERATE** and/or its derivatives shall mean the doing  
29 or performing of practical work or involving the  
30 practical application of principals or processes.
- 31 s) **PERMIT** shall mean a certificate and/or a permit  
32 number of a size and style previously approved by  
the Health Commissioner.
- 33 t) **PERMITTEE** shall include the person who is the owner  
of or responsible for the operation of a food  
establishment which shall include his/her/its  
authorized representative and who shall be  
responsible for the acceptance of all notices at  
the address listed on the application for any  
permit issued hereunder.
- 34 u) **PERSON** shall include, but not be limited to, an  
individual, a corporation, firm, partnership,  
proprietorship, association, business organization,  
municipality or any other group acting as a unit,  
as well as an individual, trust or estate, or the  
agent or legal representative thereof.
- 35 v) **POTENTIALLY HAZARDOUS FOOD** shall mean any  
perishable food that consists in whole or in part of  
milk or milk products, eggs, meat, poultry, fish,  
shell fish, edible crustacea, or other ingredients,  
including synthetic ingredients, in a form capable  
of supporting rapid and progressive growth of  
infectious or toxigenic microorganisms. The term  
does not include foods which have a PH level of  
four and six-tenths (4.6) or below or a water  
activity (Aw) value of eighty-five hundredths  
(0.85) or less under standard conditions or food  
products in hermetically sealed containers  
processed to prevent spoilage.



- 1 w) **SAFE TEMPERATURES** as applied to potentially  
2 hazardous food shall mean food temperatures at 45  
3 degrees F or below, and 140 degrees F or above, and  
4 frozen foods at 0 degrees F or below, provided,  
5 however, a tolerance of 5 degrees shall be  
6 permitted on frozen foods only.
- 7 x) **SEASONAL FOOD SERVICE ESTABLISHMENT** shall mean any  
8 food establishment in an enclosure, stall or other  
9 facility, operating at a fixed location on a  
10 seasonal basis, not to exceed six (6) consecutive  
11 calendar months, where food intended for human  
12 consumption is offered for sale at retail or  
13 wholesale prices.
- 14 y) **TEMPORARY FARMER'S FOOD MARKET** shall mean any food  
15 establishment in an enclosure, stall or other  
16 facility, whether fixed or mobile, operating at a  
17 fixed location on a seasonal basis for one or more  
18 days and not to exceed six (6) consecutive calendar  
19 months, where only fresh fruits, vegetables, honey  
20 or cider intended for human consumption off the  
21 premises are offered for sale at retail or  
22 wholesale.
- 23 z) **TEMPORARY FOOD MARKET** shall mean any food  
24 establishment in any enclosure, stall or other  
25 facility whether fixed or mobile, operating at a  
26 fixed location for not more than fourteen  
27 consecutive days where food intended for human  
28 consumption off the premises is offered for sale at  
29 retail or wholesale prices.
- 30 aa) **TEMPORARY FOOD SERVICE ESTABLISHMENT** shall mean any  
31 food establishment operating at one site or  
32 location for a period of time not in excess of  
fourteen (14) consecutive calendar days, in  
connection with a fair, carnival, circus, public  
exhibition, or any other gathering, whether or not  
the facility is fixed or movable.
- bb) **UTENSIL** shall mean all containers or any equipment  
of any kind or nature, including, but not  
necessarily limited to any kitchenware, tableware,  
glassware, or cutlery, with which food may come  
into contact during storage, preparation, serving,  
or eating, or any and all apparatus, machinery or  
tools which may be used for the cleaning of said  
containers or equipment.
- cc) **VENDING OPERATOR** shall include, but not necessarily  
be limited to any person who by contract,  
agreement, or ownership, takes responsibility for  
furnishing, installing, servicing, operating, or  
maintaining one or more food or beverage vending  
machines.

## ARTICLE II. PERMITS

Section 13-4 of Article II of Chapter 13 of the City of  
Fort Wayne Code of Laws be amended as follows:



**Sec. 13-4. Separate Permits.**

A separate permit shall be required for each food establishment and/or vending operator regardless of whether or not they are contained in the same building, where the person owning the building and/or operating the food establishment are not identical. For each kitchen within a food establishment, a separate license shall be obtained and a separate license fee shall be paid. However, this requirement as to separate permits shall not apply to those arrangements where a bar and restaurant are being operated under a management agreement as long as the applicant on the food establishment permit is one and the same person as the holder of the ABC permit.

**Section 13-8. of Article II of Chapter 13 of the City of Fort Wayne Code of Laws be amended as follows:**

**Sec. 13-8. Term.**

- a. The permit for a food service establishment, mobile food service establishment, food market, mobile food market, vending operator, commissary or food processing establishment shall be for a term of one year beginning upon the date of issue.
  1. Said permit shall be renewed annually on or before the 15th day of the anniversary month.
- b. The permit for a temporary food service establishment shall be for a term not to exceed fourteen (14) consecutive calendar days.
- c. The permit for a temporary food market shall be for a term not to exceed fourteen (14) consecutive calendar days.
- d. The permit for a seasonal food service establishment and temporary farmer's food market shall be for a term not to exceed six (6) consecutive calendar months.



Section 13-9.5 shall be added to Article II of Chapter 13 of the City of Fort Wayne Code of Laws as follows:

**Sec. 13-9.5. Lapse of Permit.**

Each permit issued hereunder shall automatically lapse and be void and of no further force or effect unless the permittee actually begins operations under its permit within a time period which is equal to 25% of the life of the permit issued.

**ARTICLE III. CONSTRUCTION, RENOVATION AND ALTERATION  
OF FOOD ESTABLISHMENTS AND VENDING  
MACHINES.**

Section 13-10. of Article III of Chapter 13 of the City of Fort Wayne Code of Laws shall be amended as follows:

**Sec. 13-10. Construction, Renovation and Alteration of  
Food Establishments and Vending Machines.**

All construction, renovation and alteration of food establishments and vending machines shall be as follows:

- a) all food establishments which are hereinafter constructed or renovated shall conform in their construction to the applicable requirements of Article V. of this Ordinance.
- b) no such construction, renovation or alteration shall begin without the construction, renovation or alteration plans being first submitted to and approved by the Health Commissioner. Failure to obtain the Health Commissioner's approval, shall be the basis for the issuance of an immediate stop work order by the Health Commissioner.
- c) all equipment installed in a food establishment for use in the cleansing and bactericidal treatment of utensils, or in the preparation, storing, handling, cleaning, sanitizing or serving of food or drink, shall be of a type conforming with the minimum



standards of the National Sanitation Foundation (NSF) or (ETL), or better.

d) the Health Commissioner may condemn equipment that fails to meet NSF or ETL standards.

e) all food establishments must fully comply at all times with all local and state building and fire codes. Compliance with the building and fire codes is a pre-condition to the issuance, reinstatement or renewal of any permit. Failure of any permittee to fully comply with said building and fire codes shall be the basis for the suspension, immediate closure and/or revocation of any permit issued hereunder.

f) all food establishments involved with the on-sight preparation of food shall be required to install and maintain a food preparation sink which is separate and independent of the other sinks required under 410 IAC 7-15.1 and 7-16.1, as amended.

g) All food establishments shall be required to install a grease interceptor in the waste line leading from sinks, drains and other fixtures or equipment where grease may be introduced into the drainage of sewage systems in quantities that can effect line stoppage or hinder sewage treatment. The grease interceptor must be installed in such a manner that meets all applicable requirements imposed by the building department and shall be located in such areas as are easily accessible for cleaning.

#### ARTICLE IV. APPLICATION AND/OR PERMIT FEES.

Section 13-13. of Article IV. of Chapter 13 of the City of Fort Wayne Code of Laws shall be amended as follows:



Sec. 13.13. Permit Fees for Food Service Establishment, Temporary Food Service Establishments, Temporary Food Markets, Food Processing Establishment.

Permit Fees for Food Service Establishments, Temporary Food Service Establishments, Seasonal Food Service Establishments, Temporary Farmers Food Makret, Temporary Food Markets, Food Processing Establishment are as follows:

1. 1 through 5 employees	\$ 110.00
2. 6 through 9 employees	150.00
3. 10 through 40 employees	175.00
4. 41 employees and over	200.00
5. Temporary food service establishments (for each 48 hours of operation)	15.00
6. Temporary food market (for each 48 hours of operation)	15.00
7. Temporary farmer's food market	25.00
8. Seasonal food service establishment	
a. 1 to 5 employees	55.00
b. 6 to 10 employees	75.00
c. 11 or more employees	100.00

Section 13-19. of Article IV. of Chapter 13 of the City of Fort Wayne Code of Laws shall be amended as follows:

Sec. 13-19. Exemption.

- a. The permit fee provisions of this ordinance shall not apply to any fruit and vegetable stands maintained and operated by a person who sells directly to a consumer, fresh fruits, vegetables, honey or cider grown and sold on lands owned or controlled by him.
- b. The permit fee provisions of this ordinance shall not apply to any food establishments or vending



1 operators which comply with the terms and  
2 provisions of I.C. 16-1-20-26, unless they waive  
3 said exemption and/or operate more than thirty days  
4 in a calendar year and provide food service to  
5 persons other than members, guests or students on a  
6 regular basis.

7 1. Applicants for this exemption shall provide  
8 the Health Commission with a copy of its  
9 501(c)(3) status.

10 c. Food Establishments which sell or offer for sale  
11 directly to the consumer only prepackaged  
12 confections such as candy, chewing gum, nut meats,  
13 potato chips, pretzles, popcorn, coffee and soft  
14 drink beverages shall be exempt from the provisions  
15 of this ordinance.

16 d. Vending machines which dispense only prepackaged,  
17 pre-bottled, non-readily perishable food and  
18 beverages shall be exempt from the provisions of  
19 this Chapter.

20  
21 **ARTICLE V. MINIMUM SANITARY REQUIREMENTS**

22  
23 **Section 13-20. of Article IV. of Chapter 13 of the City**  
24 **of Fort Wayne Code of Laws shall be amended as follows:**

25 **Sec. 13-20. Minimum sanitary requirements for food**  
26 **establishments, vending operators, food**  
27 **and beverage vending machines and bed and**  
28 **breakfast inns.**

29 a. All food establishments, with the exception of  
30 temporary farmers food markets, vending operators  
31 and food and beverage vending machines shall comply  
32 with the minimum sanitary requirements specified by  
the Indiana State Board of Health as provided in  
its Regulations 410 IAC 7-15.1 and 7-16.1, as  
amended.



1 b. All food establishments, with the exception of  
2 temporary farmers food markets, vending operators  
3 and food and vending machines shall be required to  
4 tap into a publicly supplied water system when said  
5 system is located within 300 feet of the boundary  
6 lines of the real estate upon which said food  
7 establishment is located, when said system is  
8 adequate to handle an additional tap-in, and when  
9 the permittee has direct access to said system or  
10 can obtain access to said system by means of  
11 easements or other necessary grants of authority.  
12 In the case where the permittee does not have  
13 direct access to said system, the permittee shall  
14 be required to make a diligent and reasonable  
15 effort to obtain the necessary easements and/or  
16 other grants of authority to obtain access to the  
17 system.

18  
19 Section 13-21. of Article IV. of Chapter 13 of the City  
20 of Fort Wayne Code of Laws shall be amended as follows:

21 Sec. 13-21. The minimum sanitary requirements for  
22 temporary farmer's food markets are as  
23 follows.

- 24 a. Every temporary food market shall be located in  
25 clean surroundings and be kept in a clean sanitary  
26 condition.
- 27 b. All equipment and utensils used in storing and  
28 displaying fresh fruits and vegetables shall be  
29 sanitized.
- 30 c. Only fresh fruits, honey, cider and vegetables that  
31 are clean, wholesome, free from spoilage and  
32 adulteration shall be sold.
- d. All fresh fruits, honey, cider and vegetables shall  
be stored or displayed at least thirty (30) inches  
above the floor level and in such manner as to



1 protect the food from contamination by splash, foot  
2 traffic, dust, animals and other means.

3 e. Garbage and refuse shall be kept in tightly  
4 covered, watertight containers until removed and  
5 shall be disposed of daily in a place and manner  
6 that does not create a public health hazard.

7 f. All employees shall wear clean outer garments and  
8 shall keep their hands and fingernails clean at all  
9 times while engaged in the handling of food,  
10 utensils, or equipment, Employees shall not  
11 expectorate or use tobacco in any form within the  
12 establishment.

13 g. The Health Commissioner may augment such  
14 requirements when he/she may deem it necessary to  
15 prevent a condition which may constitute a public  
16 health hazard.

17  
18 ARTICLE IX. INSPECTIONS

19  
20 Section 13-32. of Article IX. of Chapter 13 of the City  
21 of Fort Wayne Code of Laws shall be amended as follows:

22 Sec. 13.32. Frequency of Inspection.

23 Except as noted below, each food establishment for  
24 which a permit is required under the provisions of this  
25 Chapter shall be inspected at least once each six months,  
26 or more frequently if determined necessary by the Health  
27 Commissioner. Temporary Farmer's Food Market and  
28 Seasonal Food Service Establishments shall be inspected  
29 at least once each permit period.

30  
31 Section 13-33. of Article IX. of Chapter 13 of the City  
32 of Fort Wayne Code of Laws shall be amended as follows:

Sec. 13.33. Inspection of Temporary Food Service  
Establishment and Temporary Food Market.




PAGE 12

Each temporary food service establishment and temporary food market for which a permit is required under the provisions of this Chapter shall be inspected at least once in each forty-eight hour period.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor and all necessary publication.

  
Council Member

APPROVED AS TO FORM  
AND LEGALITY

  
J. Timothy McCaulay, City Attorney



Read the first time in full and on motion by Edmonds,  
and duly adopted, read the second time by title and referred to the  
Committee on Regulation (and the City Plan Commission  
for recommendation) and Public Hearing to be held after due legal notice, at  
the Common Council Council Conference Room 128, City-County Building, Fort  
Wayne,, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of  
\_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_ o'clock  
\_\_\_\_\_, M., E.S.T.

DATED: \_\_\_\_\_

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by \_\_\_\_\_,  
and duly adopted, placed on its passage. PASSED \_\_\_\_\_ LOST \_\_\_\_\_  
by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	_____	_____	_____	_____
<u>BRADBURY</u>	_____	_____	_____	_____
<u>EDMONDS</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	_____	_____	_____	_____
<u>HENRY</u>	_____	_____	_____	_____
<u>LONG</u>	_____	_____	_____	_____
<u>LUNSEY</u>	_____	_____	_____	_____
<u>RAVINE</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	_____	_____	_____	_____
<u>TALARICO</u>	_____	_____	_____	_____

DATED: \_\_\_\_\_

Sandra E. Kennedy, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,  
Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)  
(SPECIAL) (ZONING) ORDINANCE RESOLUTION NO. \_\_\_\_\_  
on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

ATTEST:

(SEAL)

Sandra E. Kennedy, CITY CLERK

\_\_\_\_\_  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on  
the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,  
at the hour of \_\_\_\_\_ o'clock \_\_\_\_\_, M., E.S.T.

Sandra E. Kennedy, CITY CLERK

Approved and signed by me this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_, at the hour of \_\_\_\_\_ o'clock \_\_\_\_\_, M., E.S.T.

Paul Helmke, MAYOR





## THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ROOM 122 • FORT WAYNE, INDIANA 46802 • 219-427-1208

SANDRA E. KENNEDY, CITY CLERK

August 14, 1992

Ms. Connie Lambert  
Fort Wayne Newspapers, Inc.  
600 West Main Street  
Fort Wayne, IN 46802

Dear Ms. Lambert:

Please give the attached full coverage on the dates of August 19 and August 26, 1992, in both the News Sentinel and Journal Gazette.

RE: Legal Notice for Common Council  
of Fort Wayne, IN

Bill No. G-92-06-26 (as amended)  
General Ordinance No. G-39-92  
Food and Beverage Establishments

Please send us 4 copies of the Publisher's Affidavit from both newspapers.

Thank you.

Sincerely yours,

Sandra E. Kennedy  
City Clerk

SEK/ne  
ENCL: 1



LEGAL NOTICE

Notice is hereby given that on the 11th day of  
August, 19 92, the Common Council of the City  
of Fort Wayne, Indiana, in a Regular Session did pass  
the following Bill No. G-92-06-26 (as amended) General  
Ordinance No. G-39-92 to-wit:

**BILL NO. G-92-06-26 (AS AMENDED)**

**GENERAL ORDINANCE NO. 12-39-92**

**AN ORDINANCE amending  
Chapter 13 of the City of  
Fort Wayne Code of Laws.**

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON  
COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

**SECTION 1. That Articles I, II, III, IV, V and  
IX of Chapter 13 of the City of Fort Wayne Code of Laws  
be amended as follows:**

**CHAPTER 13  
FOOD AND BEVERAGE ESTABLISHMENTS**

**ARTICLE I. IN GENERAL**

**Section 13-1 of Article I of Chapter 13 of the City of  
Fort Wayne Code of Laws be amended as follows:**

**Sec. 13-1. Definitions.**

**Unless the context specifically indicates otherwise,  
the following definitions shall apply in the  
interpretation and enforcement of this Chapter.**

- a) **BOARD** shall mean the Fort Wayne-Allen County  
Department of Public Health of Fort Wayne, Allen  
County, Indiana.
- b) **COMMISSARY** shall mean any food establishment,  
including, but not limited to, any place in which  
food, beverages, food or beverage ingredients,  
containers, or supplies are kept, handled, prepared  
or stored for the purpose of directly supplying  
food or beverage vending machines.
- c) **DANGEROUS COMMUNICABLE DISEASE** shall include those  
diseases which epidemiological evidence indicates  
can be transmitted through food preparation.
- d) **DEPARTMENT** shall mean the Fort Wayne-Allen County  
Department of Public Health of Fort Wayne, Allen  
County, Indiana, and/or its employees.
- e) **FOOD** shall include, but not necessarily be limited  
to, all raw, cooked or processed edible substances  
which may be used in whole or in part for human  
consumption, whether solid or liquid, packaged or  
unpackaged, confectionery, or condiment, whether  
simple, mixed or compound, and all substances or  
ingredients used in the preparation thereof or  
which become components thereof.
- f) **FOOD ESTABLISHMENT** shall mean any "food service  
establishment", "temporary food service  
establishment", "mobile food service  
establishment", "food market", "temporary food  
market", "mobile food market", "mobile



PAGE 12

1                   SECTION 3. That this Ordinance shall be in  
2 full force and effect from and after its passage and any  
3 and all necessary approval by the Mayor and all necessary  
4 publication.  
5  
6

Cletus R. Edmonds  
Council Member

Read the third time in full and on motion by Edmonds,  
and duly adopted, placed on its passage. PASSED by the following  
vote:

AYES: Nine  
Bradbury, Edmonds, GiaQuinta, Henry, Long,  
Lunsey, Ravine, Schmidt, Talarico

NAYS: None

ABSENT: None

ABSTAINED: None

DATED: 8-11-92

Sandra E. Kennedy  
City Clerk

Passed and adopted by the Common Council of the City of Fort  
Wayne, Indiana, as General Ordinance No. G-39-92 on the 11th day of  
August, 1992.

ATTEST:

SEAL

Sandra E. Kennedy  
City Clerk

Thomas C. Henry  
Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana,  
on the 12th day of August, 1992, at the hour of 10:30 o'clock A.M., E.S.T.

Sandra E. Kennedy  
City Clerk

Approved and signed by me this 12th day of August, 1992, at  
the hour of 4:30 o'clock P.M., E.S.T.

Paul Helmke  
Mayor

I, The Clerk of the City of Fort Wayne, Indiana do hereby certify  
that the above and foregoing is a full, true and complete copy of

General Ordinance No. G-39-92,  
passed by the Common Council on the 11th day of  
August, 19 92, and that said Ordinance was  
duly signed and approved by the Mayor on the 12th day of  
August, 19 92, and now remains on file and  
on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne,

Indiana, this 12th day of August, 19 92.

SEAL

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK



Reg.

DIGEST SHEET

TITLE OF ORDINANCE GENERAL ORDINANCE

G-92-06-26

DEPARTMENT REQUESTING ORDINANCE BOARD OF SAFETY

(as amended)

SYNOPSIS OF ORDINANCE ADDS THREE NEW CLASSIFICATIONS TO THE FOOD AND BEVERAGE ESTABLISHMENTS ORDINANCE: SEASONAL FOOD SERVICE ESTABLISHMENT; TEMPORARY FOOD MARKET AND TEMPORARY FARMERS FOOD MARKET.

EFFECT OF PASSAGE THREE NEW CLASSIFICATIONS WILL BE ADDED.

EFFECT OF NON-PASSAGE ORDINANCE REMAINS THE SAME.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS)

ASSIGNED TO COMMITTEE (PRESIDENT)



BILL NO. G-92-06-26 (as amended)

REPORT OF THE COMMITTEE ON  
REGULATIONS

CLETUS R. EDMONDS, CHAIR  
MARK E. GIAQUINTA, VICE CHAIR  
RAVINE, SCHMIDT

*(See File)  
rept. Committee  
Aug 24  
is in for  
2 weeks*

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS  
REFERRED AN (ORDINANCE) (~~RESOLUTION~~) amending Chapter 13  
of the City of Fort Wayne Code of Laws

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION  
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID  
(ORDINANCE) (~~RESOLUTION~~)

<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>	<u>NO REC</u>
<u><i>C. R. Edmond</i></u>	_____	_____	_____
<u><i>Mark E. Giaquinta</i></u>	_____	_____	_____
<u><i>D. Schmidt</i></u>	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

DATED: 8-11-92

Sandra E. Kennedy  
City Clerk



FW Common Council

To: The Journal-Gazette Dr.

(Governmental Unit)

P.O. Box 100

ALLEN County, Indiana

Fort Wayne, IN

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set) -- number of equivalent lines

Head -- number of lines

Body -- number of lines

Tail -- number of lines

Total number of lines in notice

COMPUTATION OF CHARGES

480 lines, 1 columns wide equals 480 equivalent lines at .495 cents per line \$ 237.60

Additional charge for notices containing rule or tabular work (50 percent of above amount)

Charge for extra proofs of publication (\$1.00 for each proof in excess of two) 2.00

TOTAL AMOUNT OF CLAIM \$ 239.60

DATA FOR COMPUTING COST

Width of single column 12.5 ems

LEGAL NOTICE

Notice is hereby given that on the 11th day of August, 1992, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session did pass the following Bill No. G-92-06-26 (as amended) General Ordinance No. G-39-92 to-wit:

BILL NO. G-92-06-26 (AS AMENDED) GENERAL ORDINANCE NO. 12-39-92 AN ORDINANCE amending Chapter 13 of the City of Fort Wayne Code of Laws.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA: SECTION 1. That Articles I, II, III, IV, V and IX of Chapter 13 of the City of Fort Wayne Code of Laws be amended as follows:

CHAPTER 13

FOOD AND BEVERAGE ESTABLISHMENTS ARTICLE I. IN GENERAL

Section 13-1 of Article I of Chapter 13 of the City of Fort Wayne Code of Laws be amended as follows: Sec. 13-1. Definitions.

Unless the context specifically indicates otherwise, the following definitions shall apply in the interpretation and enforcement of this Chapter.

a) BOARD shall mean the Fort Wayne-Alle County Department of Public Health of Fort Wayne, Allen County, Indiana.

b) COMMISSARY shall mean any food establishment, including, but not limited to, any place in which food, beverages, food or beverage ingredients, containers, or supplies are kept, handled, prepared or stored for the purpose of directly supplying food or beverage vending machines.

c) DANGEROUS COMMUNICABLE DISEASE shall include those diseases which epidemiological evidence indicates can be transmitted through food preparation.

d) DEPARTMENT shall mean the Fort Wayne-Alle County Department of Public Health of Fort Wayne, Allen County, Indiana, and/or its employees.

e) FOOD shall include, but not necessarily be limited to, all raw, cooked or processed edible substances which may be used in whole or in part for human consumption, whether solid or liquid, packaged or unpackaged, confectionery, or condiment, whether simple, mixed or compound, and all substances or ingredients used in the preparation thereof or which become components thereof.

f) FOOD ESTABLISHMENT shall mean any "food service establishment, temporary food service establishment, mobile food service establishment", food market, temporary food market", temporary farmer's food market, mobile food market, "food or beverage vending machine, food processing establishment, commissary, or any other establishment where food intended for human consumption is manufactured, produced, stored, warehoused, prepared, handled, transported, sold, served or provided with or without charge; provided, however, that when the entire operation of a food establishment is receiving continuous inspection by an appropriate state or federal government agency, including the United States Department of Agriculture Consumer and Marketing Service or the Indiana State Board of Health, shall not be included in the above definition, except that the Department shall be permitted to enter such food establishment to trace spoiled or defective products that are suspected to be spoiled or defective when the same are discovered in any food establishment.

g) FOOD HANDLER shall include, but not necessarily be limited to, any person who may come into contact with food by sale, processing, preparation, packaging, serving, or who comes in contact with any utensil or equipment of any kind used in said process, or who is employed in a room or rooms in which food is being processed, prepared, packaged, served, or sold.

h) FOOD MARKET shall mean any food establishment, including, but not limited to, a grocery, meat market, poultry market, fish market, fresh fruit and

vegetable market, delicatessen, confectionery, candy kitchen, nut store, retail bakery store, or any other food establishment, whether fixed or movable, where food, intended for human consumption off the premises, is manufactured, produced, stored, prepared, handled, sold or offered for sale at retail or wholesale. Provided, however, that the provisions of this ordinance shall not include meat or poultry slaughterhouses.

i) FOOD OR BEVERAGE VENDING MACHINE shall mean any self-service device offered for public use which, upon insertion of paper money, coins or tokens, or by other similar means, dispenses unit servings of food or beverage, either in bulk or in package.

j) FOOD-PROCESSING ESTABLISHMENT shall mean a commercial establishment in which food is processed or otherwise prepared, packaged or manufactured for human consumption.

k) FOOD SERVICE ESTABLISHMENT shall mean any food establishment, including but not limited to, a restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, tavern, sandwich stand, soda fountain, commissary, drive-in restaurant, drink establishment, snack bar, food counter, dining room, food catering, industrial feeding establishment, private, public, or non-profit organization or institution routinely serving food, and any other eating or drinking establishment where food or drink is prepared, served or provided for human consumption with or without charge.

l) HEALTH COMMISSIONER shall mean the Director of Public Health of the Fort Wayne-Alle County Department of Public Health of Fort Wayne, Allen County, Indiana, and/or his/her authorized representative.

m) IMMINENT HEALTH HAZARD shall mean any event, circumstance or situation which in the sole discretion of the Health Commissioner, or his/her authorized representative, presents a serious and present health risk to a person or the public.

n) MACHINE LOCATION shall include, but not limited to, any room, enclosure, space or area where one or more food or beverage vending machines are installed or operated.

o) MOBILE FOOD MARKET shall mean any food establishment capable of being readily moved from location to location where food, intended for human consumption outside of the facility, is stored, sold or offered for sale in prepackaged form, fresh or frozen, at retail or wholesale prices.

p) MOBILE FOOD SERVICE ESTABLISHMENT shall mean any food establishment without a fixed location capable of being readily moved intact from location to location by its motorized power unit or as a trailer, or as a peddled or pushed carrier, or as a tote box.

q) NEW PERMITTEE shall be deemed to be any person, not related by blood or marriage, who acquires, through an asset purchase agreement, stock purchase agreement, merger, consolidation or other similar method, more than 50% of the control of a prior permittee's business.

r) OPERATE and/or its derivatives shall mean the doing or performing of practical work or involving the practical application of principals or processes.

s) PERMIT shall mean a certificate and/or a permit number of a size and style previously approved by the Health Commissioner.

t) PERMITTEE shall include the person who is the owner of or responsible for the operation of a food establishment which shall include his/her/its authorized representative and who shall be responsible for the acceptance of all notices at the address listed on the application for any permit issued hereunder.

u) PERSON shall include, but not be limited to, an individual, a corporation, firm, partnership, proprietorship, association, business organization, municipality or any other group acting as a unit, as well as an individual, trust or estate, or the agent or legal representative thereof.

v) POTENTIALLY HAZARDOUS FOOD shall mean any perishable food that consist in whole or in part of milk or milk products, eggs, meat, poultry, fish, shell fish, edible crustacea, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods which have a PH level of four and six-tenths (4.6) or below or a water activity (Aw) value of eighty-five hundredths (0.85) or less under standard conditions or food products in hermetically sealed containers processed to prevent spoilage.

w) SAFE TEMPERATURES as applied to potentially hazardous food shall mean food temperatures at 45 degrees F or below, and 140 degrees F or above, and frozen foods at 0 degrees F or below, provided, however, a tolerance of 5 degrees shall be permitted on frozen foods only.

x) TEMPORARY FARMER'S FOOD MARKET shall mean any food establishment in an enclosure, stall or other facility, whether fixed or mobile, operating at a fixed location on a seasonal basis for one or more days and not to exceed six (6) consecutive calendar months, where only fresh fruits, vegetables, honey or cider intended for human consumption off the premises are offered for sale at retail or wholesale.

y) TEMPORARY FOOD MARKET shall mean any food establishment in any enclosure, stall or other facility whether fixed or mobile, operating at a fixed location for not more than fourteen consecutive days where food intended for human consumption off the premises is offered for sale at retail or wholesale prices.

z) TEMPORARY FOOD SERVICE ESTABLISHMENT shall mean any food establishment operating at one site or location for a period of time not in excess of fourteen (14) consecutive calendar days, in connection with a fair, carnival, circus, public exhibition, or any other gathering, whether or not the facility is fixed or movable.

aa) UTENSIL shall mean all containers or any equipment of any kind or nature, including, but not necessarily limited to any kitchenware, tableware, glassware, or cutlery, with which food may come into contact during storage, preparation, serving, or eating, or any and all apparatus, machinery or tools which may be used for the cleaning of said containers or equipment.

bb) VENDING OPERATOR shall include, but not necessarily be limited to any person who by contract, agreement, or ownership, takes responsibility for furnishing, installing, servicing, operating, or maintaining one or more food or beverage vending machines.

ARTICLE II. PERMITS

Section 13-4 of Article II of Chapter 13 of the City of Fort Wayne Code of Laws be amended as follows: Sec. 13-4. Separate Permits.

A separate permit shall be required for each food establishment and/or vending operator regardless of whether or not they are contained in the same building, where the person owning the building and/or operating the food establishment are not identical. For each kitchen within a food establishment, a separate license shall be obtained and a separate license fee shall be paid. However, this requirement as to separate permits shall not apply to those arrangements where a bar and restaurant are being operated under a management agreement as long as the applicant on the food establishment permit is one and the same person as the holder of the ABC permit.

Section 13-8, of Article II of Chapter 13 of the City of Fort Wayne Code of Laws be amended as follows: Sec. 13-8. Term.

a. The permit for a food service establishment, mobile food service establishment, food market, mobile food market, vending operator, commissary or food processing establishment shall be for a term of one year beginning upon the date of issue.

1. Said permit shall be renewed annually on or before the 15th day of the anniversary month. b. The permit for a temporary food service establishment shall be for a term not to exceed fourteen (14) consecutive calendar days.

c. The permit for a temporary food market for a term not to exceed fourteen (14) consecutive calendar days.

d. The permit for a temporary farmer's food market shall be for a term not to exceed six (6) consecutive calendar months.

Section 13-9.5 shall be added to Article II of the City of Fort Wayne Code of Laws to read: Sec. 13-9.5. Lapse of Permit.

Each permit issued hereunder shall automatically lapse and be void and of no further force unless the permittee actually begins operation of its permit within a time period which is equal to the life of the permit issued.

ARTICLE III. CONSTRUCTION, RENOVATION, ALTERATION OF FOOD ESTABLISHMENT VENDING MACHINES.

Section 13-10, of Article III of Chapter 13 of the Fort Wayne Code of Laws shall be amended as follows:

Sec. 13-10. Construction, Renovation and Alteration of Food Establishments and Vending Machines. All construction, renovation and alteration of establishments and vending machines shall be done as follows:

a) all food establishments which are hereinafter constructed or renovated shall conform in the construction to the applicable requirements of Article III of this Ordinance.

b) no such construction, renovation or alteration shall begin without the construction, renovation or alteration plans being first submitted to and approved by the Health Commissioner. Failure to obtain the Health Commissioner's approval, shall be the basis for the issuance of an immediate stop order by the Health Commissioner.

c) all equipment installed in a food establishment used in the cleaning and bactericidal treatment of utensils, or in the preparation, storing, handling, cleaning, sanitizing or serving of food or drink shall be of a type conforming with the minimum standards of the National Sanitation Foundation (NSF) (ETL), or better.

e) all food establishments must fully comply with all local and state building and fire codes in compliance with the building and fire codes in condition to the issuance, reinstatement or renewal of any permit. Failure of any permittee to fully comply with said building and fire codes shall be the basis for the suspension, immediate closure or revocation of any permit issued hereunder.

f) all food establishments involved with the operation of food shall be required to install and maintain a food preparation sink which is separate and independent of the other sinks required by 410 IAC 7-15.1 and 7-16.1, as amended.

g) Except as set forth below, all food establishments shall be required to install a grease interceptor waste line leading from sinks, drains and other utensils or equipment where grease may be introduced into the drainage of sewage systems in such a manner that effect line stoppage or hinder sewage flow. The grease interceptor must be installed in such a manner that meets all applicable requirements imposed by the building department and be located in such areas as are easily accessible for cleaning. Any existing food establishment does not introduce grease into any sewage system shall be exempt from this provision.

ARTICLE IV. APPLICATION AND/OR PERMIT FEES.

Sec. 13-13, of Article IV, of Chapter 12 of the City of Fort Wayne Code of Laws shall be amended to read:

Sec. 13.13. Permit Fees for Food Service Establishment, Temporary Food Service Establishment, Temporary Food Markets, Food Processing Establishment.

Permit Fees for Food Service Establishments, Temporary Food Service Establishments, Temporary Farmers Food Market, Temporary Food Market, Food Processing Establishment are as follows:



City of Fort Wayne Board of Accounts  
To: The Journal-Gazette  
P.O. Box 100  
Fort Wayne, IN  
County, Indiana

PUBLISHER'S CLAIM

not exceed two actual lines, neither of which shall total  
lines of type in which the body of the advertisement is set  
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CHARGES  
columns wide equals 480 equivalent lines  
er line \$ 237.60  
or notices containing rule or tabular work  
(amount) 2.00  
ofs of publication (\$1.00 for each proof in excess of two)  
\$ 239.60  
OF CLAIM

ING COST  
mn 12.5 ems

vegetable market, delicatessen, confectionery, candy kitchen, nut store, retail bakery store, or any other food establishment, whether fixed or movable, where food, intended for human consumption off the premises, is manufactured, produced, stored, prepared, handled, sold or offered for sale at retail or wholesale. Provided, however, that the provisions of this ordinance shall not include meat or poultry slaughterhouses.  
i) FOOD OR BEVERAGE VENDING MACHINE shall mean any self-service device offered for public use which, upon insertion of paper money, coins or tokens, or by other similar means, dispenses unit servings of food or beverage, either in bulk or in package.  
j) FOOD-PROCESSING ESTABLISHMENT shall mean a commercial establishment in which food is processed or otherwise prepared, packaged or manufactured for human consumption.  
k) FOOD SERVICE ESTABLISHMENT shall mean any food establishment, including but not limited to, a restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, tavern, sandwich stand, soda fountain, commissary, drive-in restaurant, drink establishment, snack bar, food counter, dining room, food catering, industrial feeding establishment, private, public, or non-profit organization or institution routinely serving food, and any other eating or drinking establishment where food or drink is prepared, served or provided for human consumption with or without charge.  
l) HEALTH COMMISSIONER shall mean the Director of Public Health of the Fort Wayne-Allen County Department of Public Health of Fort Wayne, Allen County, Indiana, and/or his/her authorized representative.  
m) IMMINENT HEALTH HAZARD shall mean any event, circumstance or situation which in the sole discretion of the Health Commissioner, or his/her authorized representative, presents a serious and present health risk to a person or the public.  
n) MACHINE LOCATION shall include, but not limited to, any room, enclosure, space or area where one or more food or beverage vending machines are installed or operated.  
o) MOBILE FOOD MARKET shall mean any food establishment capable of being readily moved from location to location where food, intended for human consumption outside of the facility, is stored, sold or offered for sale in prepackaged form, fresh or frozen, at retail or wholesale prices.  
p) MOBILE FOOD SERVICE ESTABLISHMENT shall mean any food establishment without a fixed location capable of being readily moved intact from location to location by its motorized power unit or as a trailer, or as a peddled or pushed carrier, or as a tote box.  
q) NEW PERMITTEE shall be deemed to be any person, not related by blood or marriage, who acquires, through an asset purchase agreement, stock purchase agreement, merger, consolidation or other similar method, more than 50% of the control of a prior permittee's business.  
r) OPERATE and/or its derivatives shall mean the doing or performing of practical work or involving the practical application of principals or processes.  
s) PERMIT shall mean a certificate and/or a permit number of a size and style previously approved by the Health Commissioner.  
t) PERMITTEE shall include the person who is the owner of or responsible for the operation of a food establishment which shall include his/her/its authorized representative and who shall be responsible for the acceptance of all notices at the address listed on the application for any permit issued hereunder.  
u) PERSON shall include, but not be limited to, an individual, a corporation, firm, partnership, proprietorship, association, business organization, municipality or any other group acting as a unit, as well as an individual, trust or estate, or the agent or legal representative thereof.  
v) POTENTIALLY HAZARDOUS FOOD shall mean

milk or milk products, eggs, meat, poultry, fish, shell fish, edible crustacea, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxicogenic microorganisms. The term does not include foods which have a PH level of four and six-tenths (4.6) or below or a water activity (Aw) value of eighty-five hundredths (0.85) or less under standard conditions or food products in hermetically sealed containers processed to prevent spoilage.  
w) SAFE TEMPERATURES as applied to potentially hazardous food shall mean food temperatures at 45 degrees F or below, and 140 degrees F or above, and frozen foods at 0 degrees F or below, provided, however, a tolerance of 5 degrees shall be permitted on frozen foods only.  
x) TEMPORARY FARMER'S FOOD MARKET shall mean any food establishment in an enclosure, stall or other facility, whether fixed or mobile, operating at a fixed location on a seasonal basis for one or more days and not to exceed six (6) consecutive calendar months, where only fresh fruits, vegetables, honey or cider intended for human consumption off the premises are offered for sale at retail or wholesale.  
y) TEMPORARY FOOD MARKET shall mean any food establishment in any enclosure, stall or other facility whether fixed or mobile, operating at a fixed location for not more than fourteen consecutive days where food intended for human consumption off the premises is offered for sale at retail or wholesale prices.  
z) TEMPORARY FOOD SERVICE ESTABLISHMENT shall mean any food establishment operating at one site or location for a period of time not in excess of fourteen (14) consecutive calendar days, in connection with a fair, carnival, circus, public exhibition, or any other gathering, whether or not the facility is fixed or movable.  
aa) UTENSIL shall mean all containers or any equipment of any kind or nature, including, but not necessarily limited to any kitchenware, tableware, glassware, or cutlery, with which food may come into contact during storage, preparation, serving, or eating, or any and all apparatus, machinery or tools which may be used for the cleaning of said containers or equipment.  
bb) VENDING OPERATOR shall include, but not necessarily be limited to any person who by contract, agreement, or ownership, takes responsibility for furnishing, installing, servicing, operating, or maintaining one or more food or beverage vending machines.  
ARTICLE II. PERMITS  
Section 13-4 of Article II of Chapter 13 of the City of Fort Wayne Code of Laws be amended as follows:  
Sec. 13-4. Separate Permits.  
A separate permit shall be required for each food establishment and/or vending operator regardless of whether or not they are contained in the same building, where the person owning the building and/or operating the food establishment are not identical. For each kitchen within a food establishment, a separate license shall be obtained and a separate license fee shall be paid. However, this requirement as to separate permits shall not apply to those arrangements where a bar and restaurant are being operated under a management agreement as long as the applicant on the food establishment permit is one and the same person as the holder of the ABC permit.  
Section 13-8 of Article II of Chapter 13 of the City of Fort Wayne Code of Laws be amended as follows:  
Sec. 13-8. Term.  
a. The permit for a food service establishment, mobile food service establishment, food market, mobile food market, vending operator, commissary or food processing establishment shall be for a term of one year beginning upon the date of issue.  
1. Said permit shall be renewed annually on or before the 15th day of the anniversary month.  
b. The permit for a temporary food service establishment shall be for a term not to exceed fourteen (14)

c. The permit for a temporary food market shall be for a term not to exceed fourteen (14) consecutive calendar days.  
d. The permit for a temporary farmer's food market shall be for a term not to exceed six (6) consecutive calendar months.  
Section 13-9.5 shall be added to Article II of Chapter 13 of the City of Fort Wayne Code of Laws as follows:  
Sec. 13-9.5. Lapse of Permit.  
Each permit issued hereunder shall automatically lapse and be void and of no further force or effect unless the permittee actually begins operations under its permit within a time period which is equal to 25% of the life of the permit issued.  
ARTICLE III. CONSTRUCTION, RENOVATION AND ALTERATION OF FOOD ESTABLISHMENTS AND VENDING MACHINES.  
Section 13-10 of Article III of Chapter 13 of the City of Fort Wayne Code of Laws shall be amended as follows:  
Sec. 13-10. Construction, Renovation and Alteration of Food Establishments and Vending Machines.  
All construction, renovation and alteration of food establishments and vending machines shall be as follows:  
a) all food establishments which are hereinafter constructed or renovated shall conform in their construction to the applicable requirements of Article V of this Ordinance.  
b) no such construction, renovation or alteration shall begin without the construction, renovation or alteration plans being first submitted to and approved by the Health Commissioner. Failure to obtain the Health Commissioner's approval, shall be the basis for the issuance of an immediate stop work order by the Health Commissioner.  
c) all equipment installed in a food establishment for use in the cleansing and bactericidal treatment of utensils, or in the preparation, storing, handling, cleaning, sanitizing or serving of food or drink, shall be of a type conforming with the minimum standards of the National Sanitation Foundation (NSF) or (ETL) or better.  
e) all food establishments must fully comply at all times with all local and state building and fire codes. Compliance with the building and fire codes is a precondition to the issuance, reinstatement or renewal of any permit. Failure of any permittee to fully comply with said building and fire codes shall be the basis for the suspension, immediate closure and/or revocation of any permit issued hereunder.  
f) all food establishments involved with the on-site preparation of food shall be required to install and maintain a food preparation sink which is separate and independent of the other sinks required under 410 IAC 7-15.1 and 7-16.1, as amended.  
g) Except as set forth below, all food establishments shall be required to install a grease interceptor in the waste line leading from sinks, drains and other fixtures or equipment where grease may be introduced into the drainage of sewage systems in quantities that can effect line stoppage or hinder sewage treatment. The grease interceptor must be installed in such a manner that meets all applicable requirements imposed by the building department and shall be located in such areas as are easily accessible for cleaning. Any existing food establishment which does not introduce grease into any sewage system shall be exempt from this provision.  
ARTICLE IV. APPLICATION AND/OR PERMIT FEES.  
Sec. 13-13 of Article IV of Chapter 12 of the City of Fort Wayne Code of Laws shall be amended as follows:  
Sec. 13.13. Permit Fees for Food Service Establishment, Temporary Food Service Establishments, Temporary Food Markets, Food Processing Establishment, Temporary Food Service Establishments, Temporary Farmers Food Market, Temporary Food Markets, Food Processing Establishment are as follows:

2. 6 through 9 employees	150.00
3. 10 through 40 employees	175.00
4. 41 employees and over	200.00
5. Temporary food service establishments (for each 48 hours of operation)	15.00
6. Temporary food market (for each 48 hours of operation)	15.00
7. Temporary farmer's food market	25.00

Section 13-19 of Article IV of Chapter 13 of the City of Fort Wayne Code of Laws shall be amended as follows:  
Sec. 13-19. Exemption.  
a. The permit fee provisions of this ordinance shall not apply to any fruit and vegetable stands maintained and operated by a person who sells directly to a consumer, fresh fruits, vegetables, honey or cider grown and sold on lands owned or controlled by him.  
b. The permit fee provisions of this ordinance shall not apply to any food establishments or vending operators which comply with the terms and provisions of I.C. 16-1-20-26, unless they waive said exemption and/or operate more than thirty days in a calendar year and provide food service to persons other than members, guests or students on a regular basis.  
1. Applicants for this exemption shall provide the Health Commission with a copy of its 501(c) (3) status.  
c. Food Establishments which sell or offer for sale directly to the consumer only prepackaged confections such as candy, chewing gum, nut meats, potato chips, pretzels, popcorn, coffee and soft drink beverages shall be exempt from the provisions of this ordinance.  
d. Vending machines which dispense only prepackaged, pre-bottled, non-readily perishable food and beverages shall be exempt from the provisions of this Chapter.  
ARTICLE V. MINIMUM SANITARY REQUIREMENTS  
Section 13-20 of Article IV of Chapter 13 of the City of Fort Wayne Code of Laws shall be amended as follows:  
Sec. 13-20. Minimum sanitary requirements for food establishments, vending operators, for 1 and beverage vending machines and bed and breakfast inns.  
a. All food establishments, with the exception of temporary farmers food markets, vending operators and food and beverage vending machines shall comply with the minimum sanitary requirements specified by the Indiana State Board of Health as provided in its Regulations 410 IAC 7-15.1 and 7-16.1, as amended.  
b. All food establishments, with the exception of temporary farmers food markets, vending operators and food and beverage vending machines shall be required to tap into a publicly supplied water system when said system is located within 300 feet of the boundary lines of the real estate upon which said food establishment is located, when said system is adequate to handle an additional tap-in, and when the permittee has direct access to said system or can obtain access to said system by means of easements or other necessary grants of authority. In the case where the permittee does not have direct access to said system, the permittee shall be required to make a diligent and reasonable effort to obtain the necessary easements and/or other grants of authority to obtain access to the system.  
Section 13-21 of Article IV of Chapter 13 of the City of Fort Wayne Code of Laws shall be amended as follows:  
Sec. 13-21. The minimum sanitary requirements for temporary farmer's food markets are as follows.  
a. Every temporary food market shall be located in clean surroundings and be kept in a clean sanitary condition.  
b. All equipment and utensils used in storing and displaying fresh fruits and vegetables shall be sanitized.  
c. Only fresh fruits, honey, cider and vegetables that are clean, wholesome, free from spoilage and adulteration shall be sold.  
d. All fresh fruits, honey, cider and vegetables shall

above the floor level and in such manner as to protect the food from contamination by splash, foot traffic, dust, animals and other means.  
e. Garbage and refuse shall be kept in tightly covered, watertight containers until removed and shall be disposed of daily in a place and manner that does not create a public health hazard.  
f. All employees shall wear clean outer garments and shall keep their hands and fingernails clean at all times while engaged in the handling of food, utensils, or equipment. Employees shall not expectorate or use tobacco in any form within the establishment.  
g. The Health Commissioner may augment such requirements when he/she may deem it necessary to prevent a condition which may constitute a public health hazard.  
ARTICLE IX. INSPECTIONS  
Section 13-32 of Article IX of Chapter 13 of the City of Fort Wayne Code of Laws shall be amended as follows:  
Sec. 13.32. Frequency of Inspection.  
Except as noted below, each food establishment for which a permit is required under the provisions of this Chapter shall be inspected at least once each six months, or more frequently if determined necessary by the Health Commissioner. A temporary Farmer's Food Market shall be inspected at least once each permit period.  
Section 13-33 of Article IX of Chapter 13 of the City of Fort Wayne Code of Laws shall be amended as follows:  
Sec. 13.33. Inspection of Temporary Food Service Establishment and Temporary Food Market.  
Each temporary food service establishment and temporary food market for which a permit is required under the provisions of this Chapter shall be inspected at least once in each forty-eight hour period.  
SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor and all necessary publication.  
Cletus R. Edmonds  
Council Member  
Read the third time in full and on motion by Edmonds, and duly adopted, placed on its passage. PASSED by the following vote:  
AYES: Nine  
Bradbury, Edmonds, GiaQuinta, Henry, Long, Lunsey, Ravine, Schmidt, Talarico  
NAYS: None  
ABSENT: None  
DATED: 8-11-92  
Sandra E. Kennedy  
City Clerk  
Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance No. G-39-92 on the 11th day of August, 1992.  
ATTEST:  
Sandra E. Kennedy  
Thomas C. Henry  
City Clerk  
Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of August, 1992, at the hour of 10:30 o'clock A.M., E.S.T.  
Sandra E. Kennedy  
City Clerk  
Approved and signed by me this 12th day of August, 1992, at the hour of 4:30 o'clock P.M., E.S.T.  
Paul Helmke  
Mayor  
I, The Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing is a full, true and complete copy of General Ordinance No. G-39-92, passed by the Common Council on the 11th day of August, 1992, and that said Ordinance was duly signed and approved by the Mayor on the 12th day of August, 1992, and now remains on file and on record in my office.  
WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 12th day of August, 1992.  
SANDRA E. KENNEDY, CITY CLERK



FW Common Council

To: The Journal-Gazette Dr.

(Governmental Unit)

P.O. Box 100  
Fort Wayne, IN

ALLEN County, Indiana

### PUBLISHER'S CLAIM

#### LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set)  
-- number of equivalent lines

Head -- number of lines

Body -- number of lines

Tail -- number of lines

Total number of lines in notice

#### COMPUTATION OF CHARGES

480 lines, 1 columns wide equals 480 equivalent lines  
at .495 cents per line

\$ 237.60

Additional charge for notices containing rule or tabular work  
(50 percent of above amount)

Charge for extra proofs of publication (\$1.00 for each proof in excess of two)

2.00

TOTAL AMOUNT OF CLAIM

\$ 239.60

#### DATA FOR COMPUTING COST

Width of single column 12.5 ems  
Number of insertions 2  
Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

August 27 19 92

Title: Clerk

### PUBLISHER'S AFFIDAVIT

State of Indiana )

) ss:

Allen County )

Personally appeared before me, a notary public in and for said county and state, the undersigned Cindy Gillenwater who, being duly sworn, says that he/ she is Clerk of the The Journal-Gazette newspaper of general

circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for offering 2 time 8/19, 27/92, the dates of publication being as follows:

Cindy Gillenwater  
Subscribed and sworn to before me this 27th day of August, 19 92

Notary Public Whitley County, IN  
SHELLEY R. LARUE

My commission expires: March 3, 1994



store, retail bakery store, or any other food establishment, whether fixed or movable, intended for human consumption off the unmanufactured, produced, stored, pre-sold or offered for sale at retail or ded, however, that the provisions of shall not include meat or poultry

AVERAGE VENDING MACHINE shall mean device offered for public use eriction of paper money, coins or tor similar means, dispenses unit serv-beverage, either in bulk or in pack-

CESSING ESTABLISHMENT shall mean establishment in which food is otherwise prepared, packaged or man-nan consumption.

ICE ESTABLISHMENT shall mean shopment, including but not limited to, coffee shop, cafeteria, short-order itte, tavern, sandwich stand, soda issary, drive-in restaurant, drink es-ack bar, food counter, dining room, ndustrial feeding establishment, pri-on-profit organization or institution food, and any other eating or drink-nt where food or drink is prepared, ed for human consumption with or

MISSIONER shall mean the Director of the Fort Wayne-Alan County De-icible Health of Fort Wayne, Allen , and/or his/her authorized repre-

HEALTH HAZARD shall mean any nce or situation which in the sole e Health Commissioner, or his/her esentative, presents a serious and sk to a person or the public.

LOCATION shall include, but not limit- enclosure, space or area where one beverage vending machines are in- ed.

MARKET shall mean any food es- able of being readily moved from lo- on where food, intended for human tside of the facility, is stored, sold or n prepackaged form, fresh or frozen, sale prices.

ERVICE ESTABLISHMENT shall mean establishment without a fixed loca- being readily moved intact from loca- by its motorized power unitl or as a addled or pushed carrier, or as a tote

TEE shall be deemed to be any per- by blood or marriage, who acquires, et purchase agreement, stock pur- tit, merger, consolidation or other si- ore that 50% of the control of a pri- vusiness.

nd/or its derivatives shall mean the ing of practical work or involving the tion of principals or processes.

I mean a certificate and/or a permit e and style previously approved by missioner.

shall include the person who is the on-sible for the operation of a food hich shall include his/her 1's author- ive and who shall be responsible for al of notices at the address listed on or any permit issued hereunder.

all include, but not be limited to, an rporation, firm, partnership, propri- ation, business organization, munici- ner group acting as a unit, as well as ust or estate, or the agent or legal reerof.

LY HAZARDOUS FOOD shall mean ood that consist in whole or in part of

fish, edible crustacea, or other ingredients, including synthetic ingredients, in a form capable of support- ing rapid and progressive growth of infectious or toxicogenic microorganisms. The term does not include foods which have a PH level of four and six-tenths (4.6) or below or a water activity (Aw) value of eighty-five hundredths (0.85) or less under standard conditions or food products in hermetically sealed containers processed to prevent spoilage.

h) SAFE TEMPERATURES as applied to potentially hazardous food shall mean food temperatures at 45 degrees F or below, and 140 degrees F or above, and frozen foods at 0 degrees F or below, provided, however, a tolerance of 5 degrees shall be permitted on frozen foods only.

x) TEMPORARY FARMER'S FOOD MARKET shall mean any food establishment in an enclosure, stall or other facility, whether fixed or mobile, operating at a fixed location on a seasonal basis for one or more days and not to exceed six (6) consecutive calendar months, where only fresh fruits, vegetables, honey or cider intended for human consumption off the premises are offered for sale at retail or wholesale.

y) TEMPORARY FOOD MARKET shall mean any food establishment in any enclosure, stall or other facility whether fixed or mobile, operating at a fixed location for not more than fourteen consecutive days where food intended for human consumption off the premises is offered for sale at retail or wholesale prices.

z) TEMPORARY FOOD SERVICE ESTABLISHMENT shall mean any food establishment operating at one site or location for a period of time not in excess of fourteen (14) consecutive calendar days, in connection with a fair, carnival, circus, public exhibition, or any other gathering, whether or not the facility is fixed or movable.

aa) UTENSIL shall mean all containers or any equipment of any kind or nature, including, but not necessarily limited to any kitchenware, tableware, glassware, or cutlery, with which food may come into contact during storage, preparation, serving, or eating, or any and all apparatus, machinery or tools which may be used for the cleaning of said containers or equipment.

bb) VENDING OPERATOR shall include, but not necessarily be limited to any person who by contract, agreement, or ownership, takes responsibility for furnishing, installing, servicing, operating, or maintaining one or more food or beverage vending machines.

ARTICLE II. PERMITS

Section 13-4 of Article II of Chapter 13 of the City of Fort Wayne Code of Laws be amended as follows:

Sec. 13-4. Separate Permits.

A separate permit shall be required for each food establishment and/or vending operator regardless of whether or not they are contained in the same building, where the person owning the building and/or operating the food establishment are not identical. For each kitchen within a food establishment, a separate license shall be obtained and a separate li- cense fee shall be paid. However, this requirement as to separate permits shall not apply to those ar- rangements where a bar and restaurant are being operated under a management agreement as long as the applicant on the food establishment permit is one and the same person as the holder of the ABC permit.

Section 13-8. of Article II of Chapter 13 of the City of Fort Wayne Code of Laws be amended as follows:

Sec. 13-8. Term.

a. The permit for a food service establishment, mobile food service establishment, food market, mobile food market, vending operator, commissary or food processing establishment shall be for a term of one year beginning upon the date of issue.

1. Said permit shall be renewed annually on or be- fore the 15th day of the anniversary month.

b. The permit for a temporary food service establish- ment shall be for a term not to exceed fourteen (14) consecutive calendar days.

for a term not to exceed fourteen (14) consecutive calendar days.

d. The permit for a temporary farmer's food market shall be for a term not to exceed six (6) consecutive calendar months.

Section 13-9.5 shall be added to Article II of Chapter 13 of the City of Fort Wayne Code of Laws follows:

Sec. 13-9.5. Lapse of Permit.

Each permit issued hereunder shall automatically lapse and be void of and of no further force or effect unless the permittee actually begins operations under its permit within a time period which is equal to 25 % of the life of the permit issued.

ARTICLE III. CONSTRUCTION, RENOVATION AND ALTERATION OF FOOD ESTABLISHMENTS AND VENDING MACHINES.

Section 13-10. of Article III of Chapter 13 of the City of Fort Wayne Code of Laws shall be amended as follows:

Sec. 13-10. Construction, Renovation and Alteration of Food Establishments and Vending Machines.

All construction, renovation and alteration of food establishments and vending machines shall be as fol- lows:

a) all food establishments which are hereinafter con- structed or renovated shall conform in their con- struction to the applicable requirements of Article V. of this Ordinance.

b) no such construction, renovation or alteration shall begin without the construction, renovation or alteration plans being first submitted to and ap- proved by the Health Commissioner. Failure to ob- tain the Health Commissioner's approval, shall be the basis for the issuance of an immediate stop work order by the Health Commissioner.

c) all equipment installed in a food establishment for use in the cleansing and bactericidal treatment of utensils, or in the preparation, storing, handling, cleaning, sanitizing or serving of food or drink, shall be of a type conforming with the minimum standards of the National Sanitation Foundation (NSF) or (ETL), or better.

e) all food establishments must fully comply at all times with all local and state building and fire codes. Compliance with the building and fire codes is a pre- condition to the issuance, reinstatement or renewal of any permit. Failure of any permittee to fully com- ply with said building and fire codes shall be the ba- sis for the suspension, immediate closure and/or revocation of any permit issued hereunder.

f) all food establishments involved with the on-sight preparation of food shall be required to install and maintain a food preparation sink which is separate and independent of the other sinks required under 410 IAC 7-15.1 and 7-16.1, as amended.

g) Except as set forth below, all food establishments shall be required to install a grease interceptor in the waste line leading from sinks, drains and other fix- tures or equipment where grease may be introduced into the drainage of sewage systems in quantities that can effect line stoppage or hinder sewage treat- ment. The grease interceptor must be installed in such a manner that meets all applicable require- ments imposed by the building department and shall be located in such areas as are easily accessible for cleaning. Any existing food establishment which does not introduce grease into any sewage system shall be exempt from this provision.

ARTICLE IV. APPLICATION AND/OR PERMIT FEES.

Sec. 13-13. of Article IV. of Chapter 12 of the City of Fort Wayne Code of Laws shall be amended as fol- lows:

Sec. 13.13. Permit Fees for Food Service Establish- ment, Temporary Food Service Establishments, Temporary Food Markets, Food Processing Estab- lishment.

Permit Fees for Food Service Establishments, Tem- porary Food Service Establishments, Temporary Farmers Food Makret, Temporary Food Markets, Food Processing Establishment are as follows:

1. 1 through 5 employees \$110.00

3. 10 through 40 employees 175.00

4. 41 employees and over 200.00

5. Temporary food service establishments (for each 48 hours of operation) 15.00

6. Temporary food market (for each 48 hours of operation) 15.00

7. Temporary farmer's food market 25.00

Section 13-19. of Article IV. of Chapter 13 of the City of Fort Wayne Code of Laws shall be amended as follows:

Sec. 13-19. Exemption.

a. The permit fee provisions of this ordinance shall not apply to any fruit and vegetable stands main- tained and operated by a person who sells directly to a consumer, fresh fruits, vegetables, honey or cider grown and sold on lands owned or controlled by him.

b. The permit fee provisions of this ordinance shall not apply to any food establishments or vending op- erators which comply with the terms and provisions of I.C. 16-1-20-26, unless they waive said exemption and/or operate more than thirty days in a calendar year and provide food service to persons other than members, guests or students on a regular basis.

1. Applicants for this exemption shall provide the Health Commission with a copy of its 501 (c) (3) status.

c. Food Establishments which sell or offer for sale di- rectly to the consumer only prepackaged confec- tions such as candy, chewing gum, nut meats, po- tato chips, pretzels, popcorn, coffee and soft drink beverages shall be exempt from the provisions of this ordinance.

d. Vending machines which dispense only prepack- aged, pre-bottled, non-readily perishable food and beverages shall be exempt from the provisions of this Chapter.

ARTICLE V. MINIMUM SANITARY REQUIREMENTS

Section 13-20. of Article IV. of Chapter 13 of the City of Fort Wayne Code of Laws shall be amended as follows:

Sec. 13-20. Minimum sanitary requirements for food establishments, vending operators, for 1 and be- verage vending machines and bed and bre kfast inns.

a. All food establishments, with the exception of temporary farmers food markets, vendi operators and food and beverage vending machines, shall comply with the minimum sanitary requirements specified by the Indiana State Board of Health as provided in its Regulations 410 IAC 7-15.1 and 7-16.1, as amended.

b. All food establishments, with the exception of temporary farmers food markets, vending operators and food and vending machines shall be required to tap into a publicly supplied water system when said system is located within 300 feet of the boundary lines of the real estate upon which said food estab- lishment is located, when said system is adequate to handle an additional tap-in, and when the permittee has direct access to said system or can obtain ac- cess to said system by means of easements or other necessary grants of authority. In the case where the permittee does not have direct access to said sys- tem, the permittee shall be required to make a dili- gent and reasonable effort to obtain the necessary easements and/or other grants of authority to obtain access to the system.

Section 13-21. of Article IV. of Chapter 13 of the City of Fort Wayne Code of Lawg shall be amended as follows:

Sec. 13-21. The minimum sanitary requirements for temporary farmer's food markets are as follows.

a. Every temporary food market shall be located in clean surroundings and be kept in a clean sanitary condition.

b. All equipment and utensils used in storing and dis- playing fresh fruits and vegetables shall be sanitized.

c. Only fresh fruits, honey, cider and vegetables that are clean, wholesome, free from spoilage and adul- teration shall be sold.

d. All fresh fruits, honey, cider and vegetables shall be stored or displayed at least thirty (30) inches

fect the food from contamination by splash, foot traffic, dust, animals and other means.

e. Garbage and refuse shall be kept in tightly cov- ered, watertight containers until removed and shall be disposed of daily in a place and manner that does not create a public health hazard.

f. All employees shall wear clean outer garments and shall keep their hands and fingernails clean at all times while engaged in the handling of food, utensils, or equipment. Employees shall not expectorate or use tobacco in any form within the establishment.

g. The Health Commissioner may augment such re- quirements when he/she may deem it necessary to prevent a condition which may constitute a public health hazard.

ARTICLE IX. INSPECTIONS

Section 13-32. of Article IX. of Chapter 13 of the City of Fort Wayne Code of Laws shall be amended as follows:

Sec. 13.32. Frequency of inspection.

Except as noted below, each food establishment for which a permit is required under the provisions of this Chapter shall be inspected at least once each six months, or more frequently if determined neces- sary by the Health Commissioner. A temporary Farmer's Food Market shall be inspected at least once each permit period.

Section 13-33. of Article IX. of Chapter 13 of the City of Fort Wayne Code of Laws shall be amended as follows:

Sec. 13.33. Inspection of Temporary Food Service Establishment and Temporary Food Market.

Each temporary food service establishment and tem- porary food market for which a permit is required un- der the provisions of this Chapter shall be inspected at least once in each forty-eight hour period.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor and all necessary publication.

Cletus R. Edmonds

Council Member

Read the third time in full and on motion by Ed- monds, and duly adopted, placed on its passage.

PASSED by the following vote:

AYES: Nine  
Bradbury, Edmonds, GiaQuinta, Henry, Long, Lunsey, Ravine, Schmidt, Talario  
NAYS: None  
ABSENT: None  
ABSTAINED: None  
DATED: 8-11-92 Sandra E. Kennedy  
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance No. G-39-92 on the 11th day of August, 1992.

ATTEST: SEAL  
Sandra E. Kennedy Thomas C. Henry  
City Clerk Presiding Officer  
Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of August, 1992, at the hour of 10:30 o'clock A.M., E.S.T.

Sandra E. Kennedy

City Clerk

Approved and signed by me this 12th day of August, 1992, at the hour of 4:30 o'clock P.M., E.S.T.

Paul Helmke

Mayor

I, The Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing is a full, true and complete copy of General Ordinance No. G-39-92, passed by the Common Council on the 11th day of August, 1992, and that said Ordinance was duly signed and approved by the Mayor on the 12th day of August, 1992, and now remains on file and on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 12th day of August, 1992.

SANDRA E. KENNEDY, CITY CLERK  
8--19-92



(Governmental Unit)

To:

The Journal-Gazette

Dr.

ALLEN

County, Indiana

P.O. Box 100

Fort Wayne, IN

## PUBLISHER'S CLAIM

## LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set)  
-- number of equivalent lines

Head -- number of lines

Body -- number of lines

Tail -- number of lines

Total number of lines in notice

## COMPUTATION OF CHARGES

480 lines, 1 columns wide equals 480 equivalent lines  
at .495 cents per line

\$ 237.60

Additional charge for notices containing rule or tabular work  
(50 percent of above amount)

Charge for extra proofs of publication (\$1.00 for each proof in excess of two)

2.00

TOTAL AMOUNT OF CLAIM

\$ 239.60

## DATA FOR COMPUTING COST

Width of single column 12.5 emsNumber of insertions 2Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

August 27

, 19 92

Title:

Clerk

## PUBLISHER'S AFFIDAVIT

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Personally appeared before me, a notary public in and for said county and state, the undersigned Cindy Gillenwater who, being duly sworn, says that he/she is Clerk of the The Journal-Gazette newspaper of general

circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter

attached hereto is a true copy, which was duly published in said paper for 2 time 8/19, 27/92, the dates of publication being as follows:

Cindy Gillenwater  
Subscribed and sworn to before me this 27th day of August, 19 92

Shelley R. Larue  
Notary Public Whitley County, IN  
SHELLEY R. LARUE

My commission expires: March 3, 1994